THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23187 OF 2005

DATED:27.10.2005

Between:

M/s.Jagadamba Group of Theatres

Visakhapatnam

…Petitioner

And

The Commissioner,

Municipal Corporation of Visakhapatnam

Visakhapatnam and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23187 OF 2005

ORDER:

M/s. Jagadamba Group of Theatres is the petitioner. They filed this writ petition alleging that the respondent Municipal Corporation proposed to widen the road and in that connection the Corporation is proposing to demolish a part of the petitioner theatres. Therefore, the petitioner submits that any such action without due process of law under the provisions of the Hyderabad Municipal Corporation Act, 1955 as applicable to Visakhapatnam Municipal Corporation, or the Land Acquisition Act, 1894, or other laws is arbitrary and illegal.

Heard the learned Standing Counsel for the respondent – Corporation.

In **P.Lakshmana Rao v. Executive Officer,** a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated by my learned brother, Sri Justice B.Sudershan Reddy in **M.Madhavi Latha v. Rajendranagar Municipality**. The principles laid down by the Division Bench are as follows.

(1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

(2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any, from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The writ petition is disposed of as above directing maintenance of status quo as on today. No costs.

_____

(V.V.S.RAO, J)

27.10.2005

bnr

Note:CC by 29.10.2005.

(B.O)

bnr